



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 30 2013

VIA FIRST CLASS MAIL

Kristi Simank, President
GUNS+
2302 North Austin Avenue
Georgetown, TX 78626

RE: MUR 6548

Dear Ms. Simank:

On April 11, 2012, the Federal Election Commission notified GUNS + of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 24, 2013, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe GUNS + violated the Act or underlying Commission regulations. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

General Counsel

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
Factual and Legal Analysis

13044343915

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENT: GUNS+

MUR 6548

6
7 **I. INTRODUCTION**

8 This matter was generated by a Complaint filed by Hugh D. Shine alleging violations of
9 the Federal Election Campaign Act of 1971, as amended (the "Act"), by Respondent GUNS+.
10 After reviewing the record, the Commission found no reason to believe that GUNS+ violated
11 the Act or underlying Commission regulations, as alleged in the Complaint.

12 **II. FACTUAL AND LEGAL ANALYSIS**

13 **A. Factual Background**

14 The Complaint asserts that a Klingemann supporter circulated e-mails that included two
15 flyers advertising a 25-gun raffle, the proceeds of which were intended to benefit the
16 Committee.¹ Compl. at 1. The first flyer explains that a maximum of 250 raffle tickets would be
17 sold, at \$100 per ticket and, beginning in "late spring 2012," one drawing per week would be
18 held, with a weekly prize of one gun, for 25 weeks. *Id.*; see also Compl., Ex. 1. The flyer
19 further states that raffle prizes were to be picked up at GUNS+ of Georgetown, Texas, which is
20 listed as a sponsor, along with "Eric Klingemann for Congress." *Id.*

21 Observing that the Act and Commission regulations prohibit corporations from making
22 contributions in connection with a Federal election, the Complaint maintains that the Committee
23 may have received illegal corporate contributions from GUNS+. Compl. at 1-3. Assuming that
24 GUNS+ is a corporation, the Complaint states that it is "unclear" how GUNS+ may have
25 "sponsored" the raffle and suggests that GUNS+ might have donated the firearms to the

¹ The Complaint includes the flyers, but not the e-mail.

13044343916

1 Committee at no cost. *Id.* Such a donation, the Complaint asserts, would constitute an illegal in-
2 kind corporate contribution in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a), (d).
3 Compl. at 1-2.² *Id.*

4 A Response on behalf of GUNS+, including a sworn affidavit, was filed by Kristi Simank
5 (“Simank”). Simank avers that she is the president and chief executive officer of Applied
6 Response Solutions, LLC (“ARS”), the entity that owns GUNS+. *Id.*³ According to Simank,
7 neither GUNS+ nor ARS agreed to co-sponsor the gun raffle or authorized the use of the
8 “GUNS+” name in connection with the Klingemann campaign. *Id.*

9 In addition, Simank attests that GUNS+ did not donate firearms or anything else of value
10 to the Committee, but rather offered to sell the guns to the Committee at retail price in
11 connection with the raffle. *Id.* Finally, as of April 25, 2012, the date of her Response, Simank
12 states that “no purchase was ever made” by the Klingemann campaign “and no sale was actually
13 consummated.”

14 After the Complaint and Simank’s Response in this matter were filed, Eric for Texas
15 Campaign and David Oberg in his official capacity as treasurer (the “Committee”) filed a
16 financial disclosure report with the Commission entitled “Termination Report.” The Report
17 covers the time period from May 10, 2012, through June 7, 2012, and discloses an undated
18 disbursement of \$5,645.24 to GUNS+. The disbursement’s purpose is labeled as “product for
19 gun raffle.”

20

² The Complaint appends the results of an internet search as to the value of the guns and claims that the
firearms ranged in price from approximately \$176 to \$1,800, for an approximate total value of \$12,700. Compl. at
1; *see also id.*, Ex. 3.

³ Simank’s Response and attached Certificate of Filing with the State of Texas (Ex. B) indicate that GUNS+
and ARS are limited liability companies, not corporations. Because it appears that GUNS+ did not make a
contribution to the Committee, *see infra*, the Commission did not explore this distinction further.

B. Legal Analysis

The allegation that GUNS+ may have made an in-kind contribution of firearms to the Committee is refuted by the affidavit from Simank and other information obtained by the Commission. These explain that GUNS+ had arranged to sell the firearms to the Committee at fair market value. Therefore, the Commission finds no reason to believe that GUNS+ violated the Act or underlying Commission regulations, as alleged in the Complaint.

13044343918